

37 Am. Jur. 2d Fraud and Deceit § 112

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Fraud and Deceit

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IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

1. Necessity of Intent

§ 112. Representations made directly or indirectly

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#) 4

Trial Strategy

[Real Estate Broker's Liability for Misrepresentation of Income, Earnings, or Profits from Property Sold, 59 Am. Jur. Proof of Facts 3d 511](#)

[Liability of Seller in Residential Real Estate Transaction for Misrepresentation Under "As Is" Contract, 59 Am. Jur. Proof of Facts 3d 463](#)

While some connection, direct or indirect, between a party charged with making false representations and a party relying thereon must be shown, it is not essential, in support of a cause of action for damages resulting from false representations, that the false representations be shown to have been made directly to the party claiming to have relied upon them.¹ Accordingly, where a party makes false representations to another with the intent or knowledge that they be exhibited or repeated to a third party for the purpose of deceiving the third party, the third party, if so deceived and injured, can maintain an action in tort against the party making the false statements for the damages resulting from the fraud.² In other words, in order to recover for representations made to a third person, it must have been intended that they be communicated to and acted upon by the complaining party³ since otherwise the complaining party has no right to rely on them⁴ and does so at the complaining party's own risk.⁵ Similarly, if representations are made to one person with the intention that a third person alone shall act upon them, the person to whom they are made cannot maintain an action for deceit against the person making them even though the person acts upon the

representations and suffers damage, but the fact that representations were intended to deceive the person to whom they were made, as well as a third person, will not affect the rights of the latter.⁶ Of course, even though indirect representations are actionable if it is intended that the defrauded person act on such representations, the principle is limited by the qualification that nevertheless the actor in the particular transaction must have been authorized so to act or have had the right to act.⁷

CUMULATIVE SUPPLEMENT

Cases:

Employer's chairman of board was liable in his individual capacity on claim for fraudulent inducement by employee who was induced to leave his prior employment and enter into executive employment contract, despite chairman's claim that he was acting at all times as agent for employer, where chairman knew at time he misrepresented his authority to bind employer to contract that he had no such authority. *Wilmot v. Bouknight*, 466 S.W.3d 219 (Tex. App. Houston 1st Dist. 2015), reh'g overruled, (July 28, 2015) and petition for review filed, (Aug. 12, 2015).

[END OF SUPPLEMENT]

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Footnotes

- 1 *Gulf Oil Corp. of Pennsylvania v. Newton*, 130 Conn. 37, 31 A.2d 462 (1943); *Oppenhuizen v. Wennersten*, 2 Mich. App. 288, 139 N.W.2d 765 (1966); *Johnson v. Sachs*, 7 A.D.2d 939, 181 N.Y.S.2d 862 (3d Dep't 1959).
- 2 Indirect reliance allows a plaintiff to prove a fraud action when he or she heard a statement not from the party that defrauded him or her but from that party's agent from someone to whom the party communicated the false statement with the intent that the victim hear it, rely on it, and act to his or her detriment. *Kaufman v. i-Stat Corp.*, 165 N.J. 94, 754 A.2d 1188 (2000).
- 3 *Gulf Oil Corp. of Pennsylvania v. Newton*, 130 Conn. 37, 31 A.2d 462 (1943); *Oppenhuizen v. Wennersten*, 2 Mich. App. 288, 139 N.W.2d 765 (1966).
- 4 The maker of a fraudulent misrepresentation is subject to liability for pecuniary loss to another who acts in justifiable reliance upon it if the misrepresentation, although not made directly to the other, is made to a third person and the maker intends or has reason to expect that its terms will be repeated or its substance communicated to the other and that it will influence his or her conduct in the transaction or type of transaction involved. *Restatement Second, Torts* § 533.
- 5 As to statements or representations of financial condition furnished to commercial agencies, see § 254.
- 6 *Kaufman v. i-Stat Corp.*, 165 N.J. 94, 754 A.2d 1188 (2000).
- 7 *Oppenhuizen v. Wennersten*, 2 Mich. App. 288, 139 N.W.2d 765 (1966).
- 8 *Oppenhuizen v. Wennersten*, 2 Mich. App. 288, 139 N.W.2d 765 (1966).
- 9 *Hindman v. First Nat. Bank*, 112 F. 931 (C.C.A. 6th Cir. 1902); *Cheney v. Dickinson*, 172 F. 109 (C.C.A. 7th Cir. 1909); *Henry v. Dennis*, 95 Me. 24, 49 A. 58 (1901).